IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

OP.No. 12849 of 2000(D)

PETITIONER:
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1. K.K. DIVAKARAN, THE PRESIDENT, SREENARAYANA INDUSTRIAL SOCIETY, NO. K. 197/81, RAMAPURAM P.O.

2. SREENARAYANA INDUSTRIAL SOCIETY NO. K. 197/81, RAMAPURAM, REP.BY BY ITS SECRETARY, RAMAPURAM P.O.

BY ADV. SRI.P.BABU KUMAR

RESPONDENTS:
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1. THE SECRETARY, KHADI BOARD, THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR, KOTTAYAM.

3. THE TAHSILDAR, MEENACHIL, PALA.

4. THE VILLAGE OFFICER, RAMAPURAM VILLAGE, RAMAPURAM.

R2 TO R4 BY GOVERNMENT PLEADER SRI. V. TEKCHAND.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 21026 OF 2000 IN OP 12849 OF 2000

DISMISSED

13.11.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE PHOTOCOPY OF THE REVENUE RECOVERY NOTICE ISSUED TO THE PETITIONERS BY THIRD RESPONDENT DATED 24.3.2000

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

O.P. NO. 12849 OF 2000

Dated this the 13th day of November, 2007

JUDGMENT

Even though Original Petition was admitted seven years back and stay was granted by this Court, the Secretary of the Khadi Board has not cared to file a statement or counter to support the claim. According to the petitioners, the amount sought to be recovered, though loan taken by the society, is time barred. The Supreme Court in the decision in STATE OF KERALA V. V.R. KALLIYANIKUTTY, (1999) 2 K.L.T. 146 (SC) held that time barred debts cannot be recovered. Since the loan agreements are not produced in court and facts are not on record, and in view of non-co-operation by the first respondent, it is not possible for this Court to verify the facts with regard to limitation and decide the matter. O.P. is accordingly disposed of directing the third respondent to call for records from the claimant, and first respondent and verify whether debt is time barred and whether petitioners are personally liable by virtue of the security bond executed by them. Third respondent will decide the matter, after hearing the petitioners

and after verifying the records, within a period of two months from today. Based on his findings, if petitioners claims are not acceptable, third respondent will pass an order giving reasons thereof and communicate the same to the petitioners before proceeding for sale of their property.

(C.N. RAMACHANDRAN NAIR)
Judge